governments cannot agree that the difference is arbitrable that ends the matter until the commission reports, and if its report is that the difference is arbitrable an agreement is made to arbitrate it, and the agreement is sent to the Senate for approval just as if no such question had been raised, and the Senate deals with it with unimpaired powers.

Perhaps the fundamental fallacy of the majority report on this point lies in the treatment of Article III as if it stood alone and unconnected with Article I or any other part of the treaty, whereas the article is merely supplemental to and must be construed with the other parts of the treaty. That this is true is shown by the language of the final paragraph of the article, which provides that questions passed upon by the Joint High Commission "shall be referred to arbitration in accordance with the provisions of this treaty"; and Article I of the treaty which is thus made part of the arbitral plan proposed by Article III provides that *all* differences in any way covered by the treaty shall be submitted under a special agreement for each case which "shall be made on the part of the United States by the Preisdent of the United States, by and with the advice and consent of the Senate thereof." There is, therefore, not only no implication that Article III is to stand alone, but, on the contrary, Article III by express statement incorporates all other parts of the treaty dealing with the matter of reference to arbitration, and this of necessity includes the making of the special agreement provided in Article I. Moreover, if a determination of the Joint High Commission under Article III eliminates, as the majority report contends, the function of the Senate in the matter of the special agreement as provided in Article I, then by a parity of reasoning the determination of such commission under Article III must also eliminate the participation of an interested self-governing dominion of the British Empire in the making of the special agreement and the constitutional requirement that the Senate and Chamber of Deputies of France shall approve certain classes of treaties before they become effective. But it is scarcely to be supposed that anyone would seriously contend for the latter construction, and as the two propositions must stand or fall together the destruction of one destroys the other. It is submitted that this whole contention is entirely untenable.

Former Congressman James A. Tawney Thinks the Treaties Certain to be Ratified.

During the last six years of his service in the House of Representatives former Congressman Tawney, of Minnesota, then chairman of the Committee on Appropriations, made a determined effort to check and keep down unnecessary war expenditures. He was the first public man who analyzed these expenditures, showing their rapid increase year by year until the fiscal year 1910, when we expended 71 per cent of our aggregate revenues, exclusive of postal receipts, on account of past wars and preparation for future wars. When in Washington a short time ago, in speaking of the ratification of the arbitration treaties now pending in the Senate, Mr. Tawney said:

"It is my opinion that these treaties should be ratified, and, with the amendment which I understand the President has agreed to, they will be ratified. There are many reasons for this, but the annual saving to the people of the United States, England, and France of hundreds of millions of dollars now wasted in preparation for war should alone be sufficient to overcome every objection that any one can now urge against their ratification.

"It is a mistake, however, to say that the issue involved is between the President and the Senate. The President has discharged his full duty in initiating and concluding the negotiation of these peace treaties. The issue is now between the people of three of the greatest nations in the world and the Senate of the United States.

"Through their appropriate and responsible representatives the people of these three nations, the United States, England, and France, have recognized the fundamental fact that the possession of irresponsible power is always a temptation to its irresponsible use. The people of these three nations have therefore in effect mutually agreed, in the future, to become responsible to each other for the exercise of their war power by solemnly agreeing to submit to an International Court of Arbitral Justice all questions arising between them that otherwise might provoke the exercise of their war power, and they have also agreed to abide by the final determination of this international tribunal. These peace treaties, therefore, represent the will of the people of three nations in respect to substituting peaceful for warlike methods in the settlement of all international questions. To become effective, however, that will must be approved by the Senate, and for that reason the issue is not between the President and the Senate, but between the people and that body.

"In negotiating these treaties the President acted for all of our people; he acted, too, from the highest motives of the public good and within his constitutional power.

"There is every evidence that his action in this respect is approved by the people as well as by the press of our country. I do not believe that the action of any President on any important subject was ever more universally approved than the action of President Taft in negotiating these treaties.

"It now remains for the Senate, without surrendering any of its constitutional rights, to ratify them and thereby crystallize into international law the will of the people of three of the most powerful nations on earth in respect to international peace. No greater responsibility ever rested upon any legislative body in the world, and I believe the magnitude of this responsibility is fully appreciated by its members.

"My confidence that these treaties will be ratified rests upon the fact that the people are themselves becoming interested and are beginning to realize how much their ratification would mean, not only to them, but to the people of all other nations. We have too much at stake—in fact, the world has too much at stake—for us to be indifferent as to the action of the Senate upon this question.

"The discussion of these treaties in open Senate will naturally awaken in the people a realizing sense of their responsibility, and also emphasize the fact that the issue involved is between them and the Senate. Although the Senate, theoretically, represents the States and not the people, I have no doubt that the thinking people of this country, rather than continue forever to carry the unnecessary burden of taxation they are now loaded down with in order to build battleships for junk piles at a cost of $40,000,000 each, including construction, operation, and maintenance during their life of only fifteen years, will make known to their Senators their views and their desires in respect to the ratification of these treaties, and thus prevent the work that has been accomplished by the head of our Government in the interest of international peace from going for naught."

The Glory of Our Common Country.

President S. C. Mitchell of the University of South Carolina.

From an address given by Dr. Mitchell at the Conference of the Society for the Judicial Settlement of Disputes, Cincinnati, November 8.

Without stopping to enumerate the instances of arbitration such as "the Alabama claims," to which the United States was a party, or the number of arbitration treaties which our country has entered into with other nations, or the cases which we have carried to The Hague for settlement, it must be plain that the present arbitration treaties arranged by President Taft with England and France are a natural outcome of American policies since the foundation of our government. Between these three enlightened nations, such treaties make reason supreme, and express the faith of these countries in justice rather than violence.

These agreements mark an epoch in the history of the human race. They are the finest instance of the moral initiative of America. They are the crown of President Taft's achievements, and they are destined to be, if ratified, the glory of our common country. Our people believe in the principle of these treaties. And they are willing to accept the judgment of such lawyers as President Taft, Secretary Knox, and Senators Cullom, Burton, and Root upon the constitutionality of the treaties without amendment.

Highly favored in position with continental domain, swept by an ocean on either side and inheriting principles that make for the supremacy of justice and the maintenance of peace, we as a nation stand face to face with one of the greatest opportunities ever presented to mankind of advancing the well-being of our kind the world around.

God has said: "I will make thee a great nation." Shall we, accepting in full the spirit of peace and the supremacy of justice, rise at this moment to the height of duty and clasp hands across the sea with the mother land and the friend who stood by us in the hour of need?

It is well for the arbitration treaties in the Senate to be discussed fully from every point of view by the American people. Mr. Roosevelt has come forward to challenge the wisdom of the proposed treaties, and citing modern instances, such as the war in China and the war between Italy and Turkey, as proofs that treaties are mere paper where the big stick is not on hand.

His argument fails in several particulars. In the first place, misgovernment in China and Turkey has nothing to do with the question of arbitration among three so advanced nations as America, England, and France. The only proper inference from such cases as Turkey and China is that in making arbitration treaties we must be careful as to the character, stability, and justice of the governments with which we enter into agreements of this kind.

The instances of Turkey and China are no argument against arbitration, but a warning that arbitration must for the present be confined to a few nations supreme in intelligence and justice. This is especially true of all-inclusive arbitration treaties, such as are proposed between America, England, and France. To come within the circle of such an agreement, it is not merely necessary that a nation be strong, but also great in conscience and moral vision.

The Peace Treaties with England and France.

From the Independent of August 10.

Last week, Thursday, a little after 3 p. m., in President Taft's study, two of these treaties were signed—those between England and the United States and France and the United States. The informality and simplicity of the ceremony added to its impressiveness. No speeches were made. Secretary Knox and Ambassador Bryce simply seated themselves on opposite sides of the table and affixed their signatures to the documents; that was all. Similarly the French Vice-Consul of New York and Secretary Knox signed the French treaty.

The treaties were sent to the Senate Friday and given to the public Saturday. They are substantially alike, and in no respect differ from the résumé given out by the State Department on May 17 and commented upon editorially in our issue of May 25.

There are only three points this week that we wish to consider in the treaties. They are the most novel and important.

First. "All" disputes that are "justiciable" and cannot be settled by diplomacy are to be submitted to arbitration. Thus the scope of our existing arbitration agreements is expanded by eliminating the exceptions of questions of "honor" and "vital interests." Still the word "justiciable" offers a loophole to escape the recourse to arbitration, because a nation may claim a dispute is not "justiciable." In that case a Commission of Inquiry will decide whether the dispute is "justiciable" or not. If it finds it is, the dispute must go to arbitration. If not, there may be war. Thus it will be seen that the treaties do not absolutely provide ways to settle "all" differences by arbitration, as President Taft said he was willing to do. Still it is almost inconceivable that a Commission of Inquiry would allow a difference to go to the point of war, especially as either nation could cause its findings to be delayed a year in order to let heated public opinion cool off and diplomacy come into action. At any rate, the scope of the treaties is so much broader than anything now existing between world